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INFO RUEHB/S/AMEMBASSY BRUSSELS 0150  
RUEHJB/AMEMBASSY BUJUMBURA 0164  
RUEHBY/AMEMBASSY CANBERRA 0002  
RUEHDR/AMEMBASSY DAR ES SALAAM 0971  
RUEHKM/AMEMBASSY KAMPALA 1731  
RUEHKI/AMEMBASSY KINSHASA 0304  
RUEHLO/AMEMBASSY LONDON 0122  
RUEHNR/AMEMBASSY NAIROBI 1029  
RUEHOT/AMEMBASSY OTTAWA 0039  
RUEHFR/AMEMBASSY PARIS 0345  
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TAGS: KAWC PHUM PREL RW

SUBJECT: ICTR PROSECUTOR ASKS FOR HELP IN POTENTIAL CASES AGAINST RWANDAN OFFICIALS

REF: KIGALI 296 (NOTAL)

Classified By: Classified by CDA Cheryl J. Sim, reason 1.4 (B/D)

¶1. (U) This is an action request. Please see paragraph 7.

¶2. (C) International Criminal Tribunal for Rwanda (ICTR) Prosecutor Hassan Bubacar Jallow met with Charge and pol/econ chief on October 17 to discuss potential cases against Rwandan officials and the importance of witness protection. Jallow said the ICTR is considering charges in two cases, but will not act unless adequate witness protection measures are in place, including relocation to third countries. Possible charges concern two events in 1994, the killing of Catholic Bishops at Kabgayi, and a "massacre" at Byumba Stadium, both involving Rwanda troops and military commanders. If charges are brought at the ICTR, the cases would be likely transferred to Rwanda courts for actual prosecution, said Jallow.

¶3. (C) Filing of charges and transfer of these two cases to Rwanda would form part of the ICTR's overall strategy to complete its prosecution caseload and send pending cases to other jurisdictions, said Jallow. Four cases involving genocide suspects had already been submitted to the ICTR judges for formal review of the prosecutor's transfer request. Several other cases involving genocide suspects would "soon" be sent to the judges for transfer review, he commented. The two cases against Rwandan commanders, said Jallow, would represent the ICTR's effort to address Rwandan Patriotic Army/Rwanda Defense Force (RPA/RDF) offenses at the time of the genocide and immediately thereafter (Note: ICTR jurisdiction runs from January 1 to December 31, 1994 for genocide and crimes against humanity). The ICTR has told the Government of Rwanda (GOR) that these two cases will potentially be brought, he added.

¶4. (C) Jallow asked if the USG would consider accepting witnesses and their families for relocation. Jallow commented that the potential witnesses "had ruled out all of Africa," and preferred to relocate in the U.S., Canada, the U.K., Australia, or New Zealand. While he agreed that claims by witnesses that security could not be assured anywhere in Africa might be exaggerated, "we are asking all our partners to assist us." Without witness relocation, he said, "we can't proceed." Charge agreed to pass Jallow's inquiry to the Department.

¶ 15. (C) Commenting generally on the state of Rwandan preparations for receiving cases from the ICTR, Jallow said the Rwandans "have done what they need to do to get ready." He noted the government was finishing holding facilities in Mpanga and Kigali ("at a very high standard") for individuals transferred by the ICTR, had abolished the death penalty, had a new statute in place governing ICTR transfers (with extensive due process protections for suspects and international monitoring mechanisms), and was in the process of becoming a party to the UN Convention Against Torture. He was optimistic that the panel of ICTR judges examining the request for case transfers to Rwanda would approve the prosecutor's request.

¶ 16. (C) Comment. This is the closest the ICTR has come to actually proceeding against officers and officials of the present government for offenses committed in 1994. The deal appears to be that if charges are filed, the cases will be heard in Rwanda by a Rwandan court -- a decision fully in keeping with the ICTR's completion strategy and its plan to transfer genocide cases and suspects to Rwanda. The ICTR and the GOR have been criticized for the appearance of one-sided justice, with the genocidal remnants of the Habyarimana government on trial in Arusha, while the Rwandan Patriotic Front and its military forces, the RPA/RDF, remain untouched.

Rwanda has always been resistant to the notion that crimes by its troops should be tried by the ICTR, and the ICTR has feared a rupture with the GOR (and loss of access to witnesses) if it pursued such crimes. Such proceedings will not entirely satisfy their critics, as there are other incidents that will remain unexamined, but these two cases would make the point that impunity is unacceptable for all participants in the events of 1994. End comment.

¶ 17. (C) Action request: Mission requests Department consult with other relevant USG departments and agencies on the question of witness relocation in the United States in exchange for testimony or statements at ICTR proceedings against the GOR and its military forces. Please advise.

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